

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

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|---------------------------|---|---------------------------|
| UNITED STATES OF AMERICA, |) | |
| Plaintiff, |) | CV-12-3081-LRS |
| vs. |) | |
| 2002 FORD F-250 TRUCK, |) | Final Order of Forfeiture |
| WASHINGTON LICENSE PLATE |) | |
| B14168T, VIN: |) | |
| 1FTNX21F02EA64934, |) | |
| Defendant. |) | |

Plaintiff, United States of America, alleged in a Verified Complaint for Forfeiture In Rem that the Defendant vehicle is subject to forfeiture to the United States pursuant to 21 U.S.C. § 881. ECF No. 1.

The Court has jurisdiction over this matter by virtue of 28 U.S.C. §§ 1345 and 1355. Venue is proper pursuant to 28 U.S.C. § 1395.

The defendant property being forfeited is described as follows:

2001 Ford F-250 Truck, Washington license plate B14168T, VIN: 1FTNX21F02EA64934, seized on or about January 4, 2012, in Yakima, Washington, by the Federal Bureau of Investigation, pursuant to a federal search warrant.

On June 25, 2012, the Clerk's office issued the Warrant of Arrest In Rem, pursuant to the Court's order of the same date. ECF No. 5.

On June 29, 2012, the Warrant of Arrest In Rem was returned executed. ECF No. 7.

Notice of Civil Forfeiture Action was posted on the official government website beginning July 1, through July 30, 2012, as required by Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, as evidenced by the Notice of Publication filed herein on

1 August 23, 2012. ECF Nos. 11, 11-1 and 11-2. At the latest, the claim period
2 expired on August 30, 2012.

3 On or about July 3, 2012, Victor Hugo Santa Cruz Barriga, was served, via
4 certified mail, return receipt requested, in care of his attorney, Blaine
5 Connaughton, and at the Yakima County Jail, with a copy of the Verified
6 Complaint for Forfeiture In Rem, Warrant of Arrest In Rem, and Notice of
7 Complaint for Forfeiture. ECF No. 9 and 9-1. Based upon the direct notice's
8 service date the last date to file a timely claim was August 7, 2012. To date, no
9 claim of interest has been received or filed with the Court from Victor Hugo Santa
10 Cruz Barriga. On October 5, 2012, the United States filed a Motion for Default as
11 to Victor Hugo Santa Cruz Barriga. ECF No. 14. On October 9, 2012, the Clerk
12 entered a default order as to Victor Hugo Santa Cruz Barriga. ECF No. 16.

13 On or about July 3, 2012, Belen Santa Cruz, was served via certified mail,
14 return receipt requested, at 1515 S. 16th Avenue, Yakima, Washington, with a copy
15 of the Verified Complaint for Forfeiture In Rem, Warrant of Arrest In Rem, and
16 Notice of Complaint for Forfeiture. ECF No. 8 and 8-1. **Based upon the direct
17 notice's service date the last date to file a timely claim was August 7, 2012.**

18 On or about July 11, 2012, the mailing sent to the 1515 S. 16th Avenue, Yakima,
19 Washington, address was received by the United States Attorney's office, stamped
20 "Not Deliverable as Addressed, Unable to Forward" and "Returned to Sender, No
21 Such Address" and included a handwritten notation of "NSN try St?".

22 On or about July 18th, 2012, Belen Santa Cruz, was served via certified mail,
23 return receipt requested, at 1515 S. 16th Street, Yakima, Washington, with a copy
24 of the Verified Complaint for Forfeiture In Rem, Warrant of Arrest In Rem, and
25 Notice of Complaint for Forfeiture. ECF No. 10 and 10-1. **Based upon the direct
26 notice's service date the last date to file a timely claim was August 22, 2012.**

27 On or about August 14, 2012, the mailing sent to the 1515 S. 16th Street,
28 Yakima, Washington, address was received by the United States Attorney's office,

1 stamped "Unclaimed" and with a yellow typewritten sticker stating "Return to
2 Sender, Unclaimed, and Unable to Forward" affixed to the envelope and also the
3 handwritten notations of "N/L 7/19, 7/24 and 8/3", said notations appear to be the
4 dates that the U.S. Postal Service attempted delivery of the mailing. According to
5 a August 24, 2012, search of LexisNexis, the 1515 S. 16th Street, Yakima,
6 Washington address is the most recent listed address associated with Belen Santa
7 Cruz.

8 On or about August 24, 2012, the United States filed its Notice of Motion
9 for Default, which was served via certified mail, return receipt requested, upon
10 Belen Santa Cruz in care of her husband's, Victor Hugo Santa Cruz Barriga's
11 attorney, Blaine Connaughton, and at the 1515 S. 16th Street address ECF No. 13.
12 On or about August 27, 2012, the United States Attorney's Office received the
13 return receipt card from the mailing to Attorney Blaine Connaughton. On or about
14 August 14, 2012, the mailing sent to the 1515 S. 16th Street, Yakima, Washington,
15 address was received by the United States Attorney's office, stamped "Return to
16 Sender, Addressee Unknown" and with a yellow typewritten sticker stating
17 "Return to Sender, Attempted - Not Known, and Unable to Forward" affixed to the
18 envelope and also the handwritten notation of "ANK".

19 On or about September 4, 2012, the U.S. Attorney's Office received a
20 handwritten statement, with two additional attached statements, dated August 29,
21 2012, from Belen Santa Cruz, which appeared to be a claim, but was not signed
22 under penalty of perjury as required by Fed. R. Civ. P. Rule G. The return address
23 on the envelope was 1200 University Way #30, Ellensburg, Washington_98926.

24 On or about October 5, 2012, Belen Santa Cruz, was served via certified
25 mail, return receipt requested, at 1200 University Way #30, Ellensburg,
26 Washington, with a copy of the Verified Complaint for Forfeiture In Rem, Warrant
27 of Arrest In Rem, and Notice of Complaint for Forfeiture. ECF Nos. 17 and 17-1.
28 **Based upon the direct notice's service date the last date to file a timely claim**

1 **was November 9, 2012.** In addition to the documents served, the United States
2 included a letter. On or about November 7, 2012, the United States received the
3 certified mail return receipt card, which appears to be signed by Belen Santa Cruz,
4 with a handwritten date of "10-5-12".

5 On or about November 14, 2012, the United States filed its second Notice of
6 Motion for Default, which was served via certified mail, return receipt requested,
7 upon Belen Santa Cruz, at the 1200 E University Way #30 address in Ellensburg,
8 Washington. On or about November 26, 2012, the United States received the
9 certified mail return receipt card which appears to be signed by Belen Santa Cruz,
10 with a handwritten date of November 21, 2012.

11 On or about November 20, 2012, FSA Paralegal Contractor Darcy Markham
12 received a telephone call from Belen Santa Cruz. Ms. Santa Cruz stated to Ms.
13 Markham that she had received the larger mailing, but that she had not received
14 the notice of default. Ms. Santa Cruz also stated that she did not understand the
15 paperwork and did not understand what was happening with the truck. Ms.
16 Markham stated that the United States was proceeding with the forfeiture of the
17 truck and that she could not provide legal advice to Ms. Santa Cruz, however, if
18 Ms. Santa Cruz did not understand the paperwork, she may want to consult an
19 attorney.

20 On or about November 29, 2012, FSA Paralegal Contractor Darcy Markham
21 received a telephone call from Belen Santa Cruz. Ms. Santa Cruz stated that she
22 had moved to Phoenix, Arizona, and that her mother had forwarded the paperwork
23 to her, but that she still does not understand what is going to happen to the truck
24 and what she needs to do. Ms. Markham stated that the paperwork served upon
25 Ms. Santa Cruz clearly explained what Ms. Santa Cruz needed to do. Ms.
26 Markham again stated that she could not offer legal advice to Ms. Santa Cruz, but
27 that if Ms. Santa Cruz did not understand the paperwork, she may want to consult
28 an attorney. Ms. Markham again stated that the United States was proceeding with

1 the forfeiture of the truck. Ms. Santa Cruz did not provide, and Ms. Markham did
2 not request Ms. Santa Cruz's address in Phoenix, Arizona, but according to a
3 November 30, 2012, search of LexisNexis, 2454 W Campbell Avenue, Apt. 277,
4 Phoenix, Arizona, is an address associated with Ms. Santa Cruz, from October
5 2009 through September 2012, but the 1515 S 16th Street, Yakima, Washington,
6 address is the most current address associated with Ms. Santa Cruz.

7 In accordance with Fed. R. Civ. P. Rule G(4)(a)(iv)(C), Supplemental Rules
8 for Admiralty or Maritime Claims and Asset Forfeiture Actions, notice of civil
9 forfeiture was posted on an official government website, www.forfeiture.gov,
10 beginning July 1, 2012. ECF Nos. 11, 11-1 and 11-2. **Based upon the internet**
11 **publication start date of July 1, 2012, the last date to file a timely claim was**
12 **August 30, 2012.**

13 Based upon the direct notice service dates and the publication start date, the
14 last deadline for Belen Santa Cruz to file a timely claim was November 9, 2012,
15 for the direct notice deadline, and August 30, 2012, for the publication deadline.
16 To date, no verified claim of interest has been received or filed with the Court
17 from Belen Santa Cruz, and the time allowed for filing of such a claim has
18 expired.

19 On or about December 6, 2012, the United States filed its Motion for
20 Default as to Belen Santa Cruz. ECF No. 19. On or about December 7, 2012, the
21 Clerk entered a default order as to Victor Hugo Santa Cruz Barriga. ECF No. 20.

22 It appearing to the Court that any and all potential claimant's interest in the
23 defendant property has been resolved through the entry of the Clerk's Order of
24 Default as to Victor Hugo Santa Cruz Barriga and Belen Santa Cruz;

25 It also appearing to the Court that no other timely claims have been made to
26 the defendant property;

1 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the
2 defendant property is hereby forfeited to the United States of America, and no
3 right, title, or interest shall exist in any other person.

4 IT IS FURTHER ORDERED that the United States shall dispose of the
5 forfeited defendant property in accordance with law.

6 DATED this 11th day of January, 2013.

7
8 ***s/Lonny R. Suko***

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Lonny R. Suko
United States District Judge

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14 Presented by:

15 Michael C. Ormsby
United States Attorney

16 s/James A. Goeke

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18 James A. Goeke
Assistant United States Attorney